



PATENT
Customer No. 22,852
Attorney Docket No. 07883.0106

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
David H. MOWRY) Group Art Unit: 3743
Application No.: 09/769,746) Examiner: RAGONESE, ANDREA M
Filed: January 25, 2001)
For: INTRAVASCULAR)
VENTRICULOCORONARY) Confirmation No. 5109
BYPASS VIA A SEPTAL)
PASSAGEWAY (As Amended))

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. § 1.705(b)**

In accordance with 37 C.F.R. § 1.705, Applicant hereby requests reconsideration of the patent term adjustment of 516 days as indicated on Determination of Patent Term Adjustment under 35 U.S.C. 154(b) ("Determination") for the above-referenced application. Specifically, as described below, this patent is entitled to 545 days of additional patent term. As required by 37 C.F.R. § 1.705(b)(1), this Request is accompanied by a check to pay the \$200.00 fee set forth in 37 C.F.R. § 1.18(e).

The PAIR printout, indicating how the Office calculated the 516 day patent term adjustment indicated in the Determination, is attached hereto. Applicant agrees that the Office accrued 574 days of delay under 37 C.F.R. § 1.703(a) for the failure to issue a first Office Action not later than 14 months after the filing of this application.

The PAIR printout, however, incorrectly indicates that the accrued 574 day patent term adjustment should be reduced by 58 days for alleged Applicant delay. Applicant agrees that the accrued patent term adjustment should be reduced by 29 days under the provision of 37 C.F.R. § 1.704(b) for an Amendment and Response to Election of Species Requirement filed more than three months after the issuance of the Office Action mailed October 20, 2003.

Applicant respectfully disagrees, however, that the accrued patent term adjustment should be reduced an additional 29 days. As indicated on the PAIR printout, a final Office Action was mailed on August 9, 2004. Applicant filed a Request for Reconsideration on November 4, 2004 in response to the final Office Action, which was within three months of the mailing date of the final Office Action as required by 37 C.F.R. § 1.704(b). An Advisory Action was then mailed on November 29, 2004. Applicant filed a Notice of Appeal on December 9, 2004 in response to the Advisory Action, which was within three months of the mailing date of the Advisory Action as required by 37 C.F.R. § 1.704(b).

Accordingly, the accrued 574 day patent term adjustment should only be reduced by 29 days, and thus the correct patent term adjustment is 545 days.

In accordance with 37 C.F.R. § 1.705(b)(2)(iv)(B), there was no circumstance, other than discussed above, constituting a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in 37 C.F.R. § 1.704.


In accordance with 37 C.F.R. § 1.705(b)(iii), this application is not subject to a Terminal Disclaimer.

Please grant any extensions of time required to enter this Request and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 30, 2005

By: 
Michael W. Kim
Reg. No. 51,880

Attachments: PAIR printout (2 pages).



Printer Friendly

09/769,746

INTRAVENTRICULAR VENTRICULOCORONARY ARTERY BYPASS DELIVERY MODALITIES

Patent Term Adjustment History

| Patent Term Adjustment (PTA) for Application Number: 09/769,746 | | | |
|-----------------------------------------------------------------|-------------------------------------------------|-----------------------------|------------|
| | | | Days |
| Filing or 371(c) Date: | 01-25-2001 | USPTO Delay (PTO): | 574 |
| Issue Date of Patent: | - | Three Years: | - |
| Pre-Issue Petitions (days): | +0 | Applicant Delay(APPL): | 58 |
| Post-Issue Petitions (days): | +0 | Total PTA: | 516 |
| USPTO Adjustment(days): | +0 | Explanation Of Calculations | |
| Patent Term Adjustment History | | | |
| Date | Contents Description | PTO(Days) | APPL(Days) |
| 06-02-2005 | Mail Notice of Allowance | | |
| 05-31-2005 | Issue Revision Completed | | |
| 05-31-2005 | Notice of Allowance Data Verification Completed | | |
| 05-31-2005 | Notice of Allowability | | |
| 03-18-2005 | Date Forwarded to Examiner | | |
| 03-08-2005 | Appeal Brief Filed | | |
| 03-08-2005 | Request for Extension of Time - Granted | | |
| 03-08-2005 | Request for Extension of Time - Granted | | |
| 01-18-2005 | Case Docketed to Examiner in GAU | | |
| 12-09-2004 | Notice of Appeal Filed | ↑ | 29 |
| 12-09-2004 | Request for Extension of Time - Granted | ↑ | ↑ |
| 11-30-2004 | Mail Advisory Action (PTOL - 303) | ↑ | ↑ |
| 11-29-2004 | Advisory Action (PTOL-303) | ↑ | ↑ |
| 11-16-2004 | Date Forwarded to Examiner | ↑ | ↑ |
| 11-04-2004 | Amendment after Final Rejection | ↑ | ↑ |
| 11-04-2004 | Workflow incoming amendment IFW | ↑ | ↑ |
| 08-10-2004 | Mail Final Rejection (PTOL - 326) | ↑ | ↑ |
| 08-09-2004 | Final Rejection | ↑ | |
| 07-06-2004 | IFW TSS Processing by Tech Center Complete | ↑ | |
| 07-06-2004 | Date Forwarded to Examiner | ↑ | |
| 06-16-2004 | Reference capture on IDS | ↑ | |
| 06-16-2004 | Information Disclosure Statement (IDS) Filed | ↑ | |
| 06-16-2004 | Response after Non-Final Action | ↑ | |
| 03-17-2004 | Mail Non-Final Rejection | ↑ | |
| 03-16-2004 | Non-Final Rejection | ↑ | |
| 03-04-2004 | Date Forwarded to Examiner | ↑ | |
| 02-18-2004 | New or Additional Drawing Filed | ↑ | |

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|------------|-------------------------------------------------------------|-----|----|
| 02-18-2004 | Response to Election / Restriction Filed | ↑ | 29 |
| 02-18-2004 | Request for Extension of Time - Granted | ↑ | ↑ |
| 12-12-2003 | Change in Power of Attorney (May Include Associate POA) | ↑ | ↑ |
| 12-11-2003 | Correspondence Address Change | ↑ | ↑ |
| 10-20-2003 | Mail Restriction Requirement | 574 | |
| 10-20-2003 | Requirement for Restriction / Election | ↑ | |
| 06-23-2003 | Case Docketed to Examiner in GAU | ↑ | |
| 05-21-2002 | Case Docketed to Examiner in GAU | ↑ | |
| 05-06-2002 | Case Docketed to Examiner in GAU | ↑ | |
| 11-26-2001 | Reference capture on IDS | ↑ | |
| 11-26-2001 | Information Disclosure Statement (IDS) Filed | ↑ | |
| 07-23-2001 | Case Docketed to Examiner in GAU | ↑ | |
| 06-19-2001 | Application Dispatched from OIPE | ↑ | |
| 06-19-2001 | Correspondence Address Change | ↑ | |
| 03-28-2001 | Application Is Now Complete | ↑ | |
| 03-28-2001 | Notice Mailed--Application Incomplete--Filing Date Assigned | ↑ | |
| 03-27-2001 | Correspondence Address Change | ↑ | |
| 03-27-2001 | Correspondence Address Change | ↑ | |
| 03-27-2001 | Correspondence Address Change | ↑ | |
| 02-12-2001 | IFW Scan & PACR Auto Security Review | ↑ | |
| 01-25-2001 | Initial Exam Team nn | ↑ | |

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